THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4934 OF 2006

Dated: 14-03-2006

Between

Vijay Kochar,

S/o. Late D. Manakchand Kochar,

R/o.11, Jeera, Secunderabad

and others.

...PETITIONERS

AND

Municipal Corporation of Hyderabad

Rep by its Commissioner, Tank Bund,

Hyderabad and another.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondents and their men in resorting to interfere with and taking possession of their land situated Western side of the Begumpet Road and Eastern side of Kochar Apartments in Sy.No.94 and 50 of Begumpet, Balanagar Mandal, Ranga Reddy District without following due process of law as illegal and arbitrary

Heard the learned counsel for the petitioners as well as the learned standing counsel for the respondents.

Learned counsel for the petitioners submits that the father of the petitioners purchased 4598 sq. yards and 765 sq. yards in Sy.Nos.94 and 50 of Begumpet, Balanagar Mandal, Ranga Reddy District under a registered sale deed document No.1632/1964 dated 08.10.1964 registered in the office of the Sub-Registrar, Secunderabad and he constructed a building by obtaining permission from the respondent corporation vide permission No.96/94 dated 21.01.1981 and 42/6 dated 10.02.1984 in the rear block of the land bearing S.No.94 and the another part of the land towards Begumpet Main Road was kept vacant and after his death petitioners succeeded to the said property. While so, on 07.03.2006 the employees and men of the first respondent corporation and second respondent Board resorted to dump earth material in the aforesaid land. The main grievance of the petitioners is that the land is owned by them and the respondents propose to effect the road widening through their land without granting extra F.S.I in proportionate to the land to be taken and without acquiring the land by paying adequate compensation as per market value as contemplated under Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to take possession of the land of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to interfere with and take possession of the said land of the petitioners without following due process of law either under Section 146 or under
Section 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

February 14, 2006

Note: Furnish C.C. of the order in two days

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DSK